

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA

v.

CHRISTIAN GUTIERREZ

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3:12-00035
No. ~~3:12-cr-158~~

JUDGE TRAUGER

PETITION TO ENTER A PLEA OF GUILTY

I, Christian Gutierrez, respectfully represent to the Court as follows:

(1) My true full name is Christian Gutierrez, I was born on July 17, 1992, and I attended school through the ninth grade. I have both read this petition, and I have had it read to me.

(2) I am represented by attorney Richard Tennent.

(3) I have received a copy of the indictment before being called upon to plead and have read and discussed it with my lawyer, and believe and feel that I understand every accusation made against me in the indictment.

(4) I have had sufficient opportunity to discuss with my lawyer the facts and surrounding circumstances concerning the matters mentioned in the indictment. My lawyer has counseled and advised with me as to the nature and cause of every accusation against me. We have thoroughly discussed the government's case against me and my potential defenses to the government's case. My lawyer has explained each element of the crime charged to me and what the government would offer to prove these elements beyond a reasonable doubt.

(5) I understand that the statutory penalty for the indicted offense is:

POSSESSION OF AMMUNITION BY PROHIBITED PERSON, in violation of 18 U.S.C. §§ 922(g)(5) and 924: up to 10 years imprisonment and a fine of up to \$250,000.

(6) I have been advised that I will be sentenced to a sentence sufficient but not greater than necessary to satisfy the goals of sentencing specified in 18 U.S.C. § 3553(a). One consideration will be Guidelines established by the United States Sentencing Commission. I understand that these Guidelines are advisory, but that the Court must take account of the Guidelines together with other sentencing goals. My lawyer and I have discussed the calculation of the advisory Guidelines in my case. My lawyer has given me an estimate of the Guidelines range that may apply in my case. He has specifically estimated the advisory Guideline to be based on an offense level of 26 and a Criminal History Category of I, leading to an advisory range of 63-78 months. I realize that this is simply my lawyer's estimate. I understand that my advisory Guideline range will be calculated by the United States Probation Officer who prepares the presentence report in my case. This estimation is subject to challenge by either me or the government. The final Guideline calculation will be made by the Court. I further understand that I may be sentenced to a fine to be calculated through the Guidelines. No fine will be imposed if the Judge finds me unable to pay any fine. Considered in this fine may be the amount of financial loss to the victim or gain to me as well as the costs of any confinement or probation supervision. The Court may also order that restitution be made to any victim of the offense. If the Court imposes a sentence that is greater than the advisory guideline range, as determined by the Court, I may appeal such sentence to the Sixth Circuit Court of Appeals. However, my plea agreement waives the right to appeal any sentence within or below the court determined guideline range.

(7) I understand that I am theoretically eligible for a sentence of probation, as the charged offense is a Class C felony punishable by no more than 10 years imprisonment. However, I understand that under the plea agreement my attorney and the government will both recommend a sentence of incarceration within the court determined guideline range. I have been informed that under the present federal sentencing system there is no parole. If I receive a sentence of incarceration, I will receive only 54 days good time per year and it will not vest until the end of each year. I further understand that if I am sentenced to a period of supervised release and I violate the terms of that

supervised release, upon revocation I could be imprisoned again.

(8) I understand that should this plea of guilty be accepted, I will be a convicted felon in the eyes of the law for the rest of my life. This means, under present law that (a) I cannot vote in Tennessee; (b) I cannot possess a firearm anywhere; (c) If I am presently on probation, parole, or supervised release whether state or federal, the fact that I have been convicted may be used to revoke my probation, parole or supervised release regardless of what sentence I receive on this case; (d) If I am convicted of any crime in the future, whether state or federal, this conviction may be used to increase any sentence that I receive, including up to life imprisonment; (e) I may have to disclose the fact that I am a convicted felon when applying for employment and such disclosure may result in my not getting some jobs and having difficulty in getting others. This conviction may result in my losing entitlement to certain federal benefits pursuant to the Anti-Drug Abuse Act of 1988.

(9) I understand that I can plead "NOT GUILTY" to any or all offenses charged against me, and continue to plead "NOT GUILTY", and that if I choose to plead not guilty, the Constitution guarantees me (a) the right to a speedy and public trial by jury; (b) the right not to testify and no implication of guilt would arise by my failure to do so; (c) the right to be presumed innocent until such time, if ever, that the government proves my guilt beyond a reasonable doubt to the satisfaction of a court and jury; (d) the right to see and hear all the witnesses and to cross-examine any witness who may testify against me; (e) the right to use the power and process of the court to compel the production of any evidence, including the attendance of any witnesses, in my favor; and to testify in my own behalf if I choose to do so; (f) the right to have the assistance of counsel in my defense at all stages of the proceedings; (g) if I am convicted at such trial I have the right to appeal with a lawyer to assist me and the appeal will not cost me any money if I am indigent. I understand that if the Court accepts my plea that there will be no jury trial and that I will be convicted of the count(s) to which I plead just as if a jury found me guilty of the charge(s) following a trial, and that the Court may impose sentence upon me as if I had been convicted by a jury or, if there is one, may sentence me within the limits set forth in the plea agreement stated in paragraph (13) herein.

(10) No officer or agent of any branch of government (federal, state or local), nor any other person, has guaranteed me what sentence I will receive. If there are any agreements between myself and my lawyer and the prosecution concerning my plea they are fully set forth in paragraph (13) below. I understand

that even with a plea agreement no person can bind the Judge to give any particular sentence in my case. This plea is entered pursuant to Rule 11(c)(1)(B), thus, if the Judge rejects the sentencing recommendation, I have no right to withdraw my plea. I understand that if the Judge decides to make a recommendation about where I should serve any incarceration that the recommendation is not a promise or a guarantee, but only a recommendation and is not binding on the Bureau of Prisons which will make the final decision (after I am sentenced) about where I will be incarcerated.

(11) My lawyer has done all the investigation and research in this case that I have asked him to do and I am satisfied with his representation at this point.

(12) Fully understanding my rights to plead "NOT GUILTY" and fully understanding the consequence of my plea of guilty, I wish to plead "GUILTY" and respectfully request the Court to accept my plea as follows:

GUILTY TO POSSESSION OF AMMUNITION BY A PROHIBITED PERSON

(13) This plea is a result of a plea agreement between my lawyer and the prosecution under the provisions of Rule 11 of the Federal Rules of Criminal Procedure. The plea agreement is as follows:

PLEASE SEE PLEA AGREEMENT

(14) I offer my plea of "GUILTY" freely and voluntarily and of my own accord; also my lawyer has explained to me, and I feel and believe I understand, the statements set forth in the indictment, and in this petition, and in the "Certificate of Counsel" which is attached to this petition.

(15) I am not under the influence of either drugs or alcohol.

(16) I request the Court to enter now my plea of "GUILTY" as set forth in paragraph (12) of this petition, in reliance upon my statements made in this petition.

(17) Recognizing that the Court may reserve acceptance of this plea pending the receipt of the pre-sentence report, I agree that the pre-sentence report may be disclosed to the United States Attorney, my counsel and myself, prior to the sentencing hearing.

Signed by me in open court under the penalties of perjury in the presence
of my lawyer, this the 8 day of ~~January~~, 2013.

March

Christian Gutierrez

Christian Gutierrez

The Defendant

ACKNOWLEDGEMENT OF GOVERNMENT ATTORNEY

The maximum punishment, plea and plea agreement (if any) are accurately
stated above.

Phil Wehby
The Honorable Phil Wehby,
Lawyer for Government

CERTIFICATE OF COUNSEL

The undersigned, as lawyer and counselor for Christian Gutierrez, hereby certifies as follows:

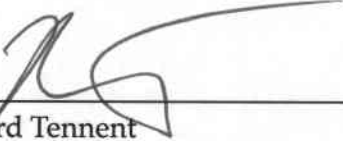
(1) I have read and fully explained to Mr. Gutierrez all the accusations against him in this case;

(2) To the best of my knowledge and belief each statement set forth in the foregoing petition is in all respects accurate and true;

(3) In my opinion the plea of "GUILTY" as offered by Mr. Gutierrez in paragraph (12) of the foregoing petition, is voluntarily and understandingly made; and I recommend to the Court that the plea of "GUILTY" be accepted and entered as requested in paragraph (12) of the foregoing petition.

Signed by me in open court in the presence of the defendant on this 8 day of ~~January~~, 2013.

March

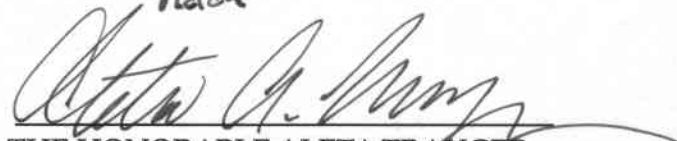


Richard Tennent
Lawyer for the Defendant

ORDER

Good cause appearing therefore from the foregoing petition of the foregoing named defendant and the certificate of her/his counsel and for all proceedings heretofore had in this case, it is ORDERED that the petition be granted and the defendant's plea of "GUILTY" be accepted and entered as prayed in the petition and as recommended in the certificate of counsel.

Done in open court this ²⁴~~8~~ day of ~~January~~^{March}, 2013,


THE HONORABLE ALETA TRAUGER
UNITED STATES DISTRICT JUDGE